

15 August 1988

NOTE FOR: DD/CAP/OP

FROM:

OCA

SUBJECT: Post Employment Bills

1. I have been sending you serveral bills designed to restrict the employment of certain Federal employees following either resignation or retirement. To this point the bills are:

--H.R. 127
--H.R. 4917
--H.R. 4921
--H.R. 5043 (copy attached)
--S. 237

2. Given the number of these bills and the interest in Congress in limiting post-employment of Federal workers, I believe we can expect enactment either in the form of a separate bill or some kind of amendment prior to adjournment.

3. I would like to know if the Agency has any specific problems with these so that I can began to raise our concerns with the appropriate staffs. If we have no problems, so much the better. Please let me know before 1 September.

cc: OCA/LD-

ADMINISTRATIVE/INTERNAL USE ONLY

100TH CONGRESS
2D SESSION

H. R. 4917

To amend section 207 of title 18, United States Code, relating to restrictions on post-employment activities.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1988

Mr. FRANK (for himself, Mr. GLICKMAN, Ms. KAPTUR, Mr. WOLPE, Mr. BERMAN, Mr. CARDIN, Mr. NAGLE, and Mr. BRYANT) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 207 of title 18, United States Code, relating to restrictions on post-employment activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Post-Employment Re-
5 strictions Act of 1988".

6 **SEC. 2. RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES.**

7 Section 207 of title 18, United States Code, is amended
8 to read as follows:

1 **“§ 207. Disqualification of former officers and employees;**
2 **disqualification of partners of current offi-**
3 **cers and employees**

4 “(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOY-
5 EES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER
6 AGENCIES.—

7 “(1) PERMANENT RESTRICTIONS.—Any person
8 who is an officer or employee of the executive branch
9 of the United States Government, or of any independ-
10 ent agency of the United States (including the Govern-
11 ment Printing Office and the General Accounting
12 Office), including a special Government employee, may
13 not, after his or her employment with the United
14 States Government has ceased—

15 “(A) act as agent or attorney for, or other-
16 wise represent, aid, or advise any other person
17 (except the United States), concerning any formal
18 or informal appearance before, or

19 “(B) make, with the intent to influence, any
20 communication on behalf of any other person
21 (except the United States) to,
22 any department, agency, court, or court-martial of the
23 United States, or any officer or employee thereof, in
24 connection with any judicial or other proceeding, appli-
25 cation, request for a ruling or other determination, con-

1 tract, claim, controversy, investigation, charge, accusa-
2 tion, arrest, or other particular matter—

3 “(i) which involves a specific party or spe-
4 cific parties,

5 “(ii) in which the United States is a party or
6 has a direct and substantial interest, and

7 “(iii) in which the person participated person-
8 ally and substantially as such officer or employee
9 through decision, approval, disapproval, recom-
10 mendation, the rendering of advice, investigation,
11 or otherwise.

12 “(2) TWO-YEAR RESTRICTIONS.—Any person
13 who is an officer or employee described in paragraph
14 (1) may not, within 2 years after his or her employ-
15 ment with the United States Government has ceased—

16 “(A) act as agent or attorney for, or other-
17 wise represent, any other person (except the
18 United States), in any formal or informal appear-
19 ance before, or

20 “(B) make, with the intent to influence, any
21 communication on behalf of any other person
22 (except the United States) to,

23 any department, agency, court, or court-martial of the
24 United States, or any officer or employee thereof, in
25 connection with any judicial or other proceeding, appli-

1 cation, request for a ruling or other determination, con-
2 tract, claim, controversy, investigation, charge, accusa-
3 tion, arrest, or other particular matter—

4 “(i) which involved a specific party or spe-
5 cific parties,

6 “(ii) in which the United States is a party or
7 has a direct and substantial interest, and

8 “(iii) which was actually pending under his
9 or her official responsibility as such officer or em-
10 ployee within a period of 1 year before the termi-
11 nation of his or her employment with the United
12 States Government.

13 “(3) ONE-YEAR RESTRICTIONS.—Any person who
14 is an officer or employee described in paragraph (1)
15 may not, within 1 year after his or her employment
16 with the United States Government has ceased—

17 “(A) act as agent or attorney for, or other-
18 wise represent, aid, or advise any other person
19 (except the United States), concerning any formal
20 or informal appearance before, or

21 “(B) make, with the intent to influence, any
22 communication on behalf of any other person
23 (except the United States) to,

1 any department, agency, court, or court-martial of the
2 United States, or any officer or employee thereof, in
3 connection with any trade negotiation—

4 “(i)(I) which was actually pending under his
5 or her official responsibility as such officer or em-
6 ployee within a period of 1 year before the termi-
7 nation of his or her employment with the United
8 States Government, or

9 “(II) in which the person participated per-
10 sonally and substantially as such officer or em-
11 ployee within a period of 1 year before the termi-
12 nation of his or her employment with the United
13 States Government.

14 For purposes of this paragraph, the term ‘trade negoti-
15 ation’ means actions taken pursuant to chapter 1 of
16 title I of the Trade Act of 1974.

17 “(b) RESTRICTIONS ON CERTAIN SENIOR EXECUTIVE
18 BRANCH PERSONNEL.—Any person who—

19 “(1) is appointed to a position in the executive
20 branch which is listed in sections 5314, 5315, or 5316
21 of title 5, or

22 “(2) is appointed by the President to a position
23 under section 105(a)(2)(B) of title 3 or by the Vice
24 President to a position under section 106(a)(1)(B) of
25 title 3,

1 may not, within 1 year after that person's service in that
2 position terminates—

3 “(A) act as agent or attorney for, or otherwise
4 represent, any other person (except the United States),
5 in any formal or informal appearance before, or

6 “(B) make, with the intent to influence, any com-
7 munication on behalf of any other person (except the
8 United States) to,

9 the department or agency in which such person served in
10 such position, or any officer or employee thereof, in connec-
11 tion with any judicial, rulemaking, or other proceeding, appli-
12 cation, request for a ruling or other determination, contract,
13 claim, controversy, investigation, charge, accusation, arrest,
14 or other particular matter—

15 “(i) which is pending before such department or
16 agency, or

17 “(ii) in which such department or agency has a
18 direct or substantial interest.

19 “(c) RESTRICTIONS ON VERY SENIOR EXECUTIVE
20 BRANCH PERSONNEL.—Any person who—

21 “(1) is appointed to a position in the executive
22 branch which is listed in section 5312 or 5313 of title
23 5,

24 “(2) is appointed by the President to a position
25 under section 105(a)(2)(A) of title 3 or by the Vice

1 President to a position under section 106(a)(1)(A) of
2 title 3, or

3 “(3) is appointed to the position of chairman, vice
4 chairman, or member of the Joint Chiefs of Staff,
5 may not, within 1 year after that person’s service in that
6 position terminates—

7 “(A) act as agent or attorney for, or otherwise
8 represent, any other person (except the United States),
9 in any formal or informal appearance before, or

10 “(B) make, with the intent to influence, any com-
11 munication on behalf of any other person (except the
12 United States) to—

13 “(i) the department or agency in which such
14 person served in such position, or any officer or
15 employee thereof, in connection with any judicial,
16 rulemaking, or other proceeding, application, re-
17 quest for a ruling or other determination, contract,
18 claim, controversy, investigation, charge, accusa-
19 tion, arrest, or other particular matter, which is
20 pending before such department or agency or in
21 which such department or agency has a direct or
22 substantial interest, or

23 “(ii) any other person appointed to a position
24 in the executive branch which is listed in sections
25 5312, 5313, 5314, 5315, or 5316 of title 5, in

1 connection with any judicial, rulemaking, or other
2 proceeding, application, request for a ruling or
3 other determination, contract, claim, controversy,
4 investigation, charge, accusation, arrest, or other
5 particular matter—

6 “(I) which is pending before the depart-
7 ment or agency in which the person serves
8 before whom the appearance is made or to
9 whom the communication is made, or

10 “(II) in which such department or
11 agency has a direct or substantial interest.

12 “(d) RESTRICTIONS ON OFFICERS AND EMPLOYEES OF
13 THE LEGISLATIVE BRANCH.—

14 “(1) MEMBERS OF CONGRESS AND ELECTED OF-
15 FICERS.—Any person who is a Member of Congress or
16 an elected officer of either House of Congress may not,
17 within 1 year after that person leaves office—

18 “(A) act as agent or attorney for, or other-
19 wise represent, any other person (except the
20 United States), in any formal or informal appear-
21 ance before, or

22 “(B) make, with the intent to influence, any
23 communication on behalf of any other person
24 (except the United States) to,

1 any of the following persons, in connection with any
2 matter involving national policy:

3 “(i) any Member of Congress, elected officer,
4 or employee of the House of Congress in which
5 such Member or officer served, or

6 “(ii) in the case of a former Member of Con-
7 gress, any person who is an officer or employee of
8 a House of Congress and who, within a period of
9 1 year before the former Member’s service as a
10 Member terminated—

11 “(I) was an employee of that Member,
12 or

13 “(II) was an employee of any commit-
14 tee of Congress on which that Member
15 served during that 1-year period.

16 This paragraph does not apply to the making of public
17 speeches.

18 “(2) PERSONAL STAFF.—Any person who is an
19 employee of a Senator or an employee of a Member of
20 the House of Representatives may not, within 1 year
21 after that employment terminates—

22 “(A) act as agent or attorney for, or other-
23 wise represent, any other person (except the
24 United States), in any formal or informal appear-
25 ance before, or

1 “(B) make, with the intent to influence, any
2 communication on behalf of any other person
3 (except the United States) to,
4 any of the following persons, in connection with any
5 matter involving national policy:

6 “(i) the Senator or Member of the House of
7 Representatives of whom that person was an em-
8 ployee, or

9 “(ii) any employee of that Senator or
10 Member.

11 “(3) COMMITTEE STAFF.—Any person who is an
12 employee of a committee of Congress may not, within
13 1 year after that person’s employment on such staff
14 terminates—

15 “(A) act as agent or attorney for, or other-
16 wise represent, any other person (except the
17 United States), in any formal or informal appear-
18 ance before, or

19 “(B) make, with the intent to influence, any
20 communication on behalf of any other person
21 (except the United States) to,
22 any person who is an employee of that committee of
23 Congress, in connection with any matter involving na-
24 tional policy.

1 “(4) LEADERSHIP STAFF.—(A) Any person who
2 is an employee on the leadership staff of the House of
3 Representatives or the leadership staff of the Senate
4 may not, within 1 year after that person’s employment
5 on such staff terminates—

6 “(i) act as agent or attorney for, or otherwise
7 represent, any other person (except the United
8 States), in any formal or informal appearance
9 before, or

10 “(ii) make, with the intent to influence, any
11 communication on behalf of any other person
12 (except the United States) to,
13 any of the following persons, in connection with any
14 matter involving national policy:

15 “(I) any employee in the office of the
16 Member of the leadership of which such person
17 was an employee,

18 “(II) the Senator or Member of the House of
19 Representatives who either is that Member of the
20 leadership or, in the case of a caucus, committee,
21 or conference, is the chairman or other head of
22 that Member of the leadership, or

23 “(III) any employee of the Senator or
24 Member of the House of Representatives referred
25 to in subclause (II).

1 “(B) Any person who is the minority sergeant at
2 arms of the House of Representatives, or who is a
3 policy-level employee appointed under authority of the
4 minority party leadership of the House of Representa-
5 tives may not, within 1 year after that person’s em-
6 ployment as such sergeant at arms or as such employ-
7 ee terminates—

8 “(i) act as agent or attorney for, or otherwise
9 represent, any other person (except the United
10 States), in any formal or informal appearance
11 before, or

12 “(ii) make, with the intent to influence, any
13 communication on behalf of any other person
14 (except the United States) to,
15 any of the following persons, in connection with any
16 matter involving national policy:

17 “(I) the Minority Leader, Minority Whip, or
18 Chief Minority Whip of the House of Representa-
19 tives,

20 “(II) any employee in the office of the Mi-
21 nority Leader, Minority Whip, or Chief Minority
22 Whip of the House of Representatives, or

23 “(III) any employee of the Member of the
24 House of Representatives who is the Minority

1 Leader, Minority Whip, or Chief Minority Whip of
2 the House of Representatives.

3 “(5) LIMITATION ON RESTRICTIONS.—The re-
4 strictions contained in paragraphs (2), (3), and (4) apply
5 only to a former employee who was paid for services
6 rendered as such employee at a rate of pay equal to or
7 greater than the basic rate of pay payable for GS-13
8 of the General Schedule under section 5332 of title 5,
9 for a period of more than 60 days during the 1-year
10 period before that former employee’s service as such
11 employee terminated.

12 “(6) DEFINITIONS.—As used in this subsection—

13 “(A) the term ‘committee of Congress’ in-
14 cludes standing committees, joint committees, and
15 select committees;

16 “(B) a person is an ‘employee of a House of
17 Congress’ if that person is an employee of a Sena-
18 tor, an employee of a Member of the House of
19 Representatives, an employee of a committee of
20 Congress, an employee on the leadership staff of
21 the House of Representatives, an employee on the
22 leadership staff of the Senate, or a person subject
23 to the restrictions contained in paragraph (4)(B);

24 “(C) a person is an ‘employee of a Member
25 of the House of Representatives’ if that person is

1 an employee of a Member of the House of Repre-
2 sentatives under the clerk hire allowance;

3 “(D) a person is an ‘employee of a Senator’
4 if that person is an employee in a position in the
5 office of a Senator;

6 “(E) the term ‘employee on the leadership
7 staff of the House of Representatives’ means an
8 employee of the office of a Member of the leader-
9 ship of the House of Representatives described in
10 subparagraph (I);

11 “(F) the term ‘employee on the leadership
12 staff of the Senate’ means an employee of the
13 office of a Member of the leadership of the Senate
14 described in subparagraph (J);

15 “(G) the term ‘Member of Congress’ means a
16 Senator or a Member of the House of Representa-
17 tives;

18 “(H) the term ‘Member of the House of Rep-
19 resentatives’ means a Representative in, or a Del-
20 egate or Resident Commissioner to, the Congress;

21 “(I) the term ‘Member of the leadership of
22 the House of Representatives’ means the Speaker,
23 Majority Leader, Minority Leader, Majority Whip,
24 Minority Whip, Chief Majority Whip, Chief Mi-
25 nority Whip, Democratic Steering Committee,

1 Democratic Caucus, and Republican Conference,
2 of the House of Representatives; and

3 “(J) the term ‘Member of the leadership of
4 the Senate’ means the Vice President, and the
5 President Pro Tempore, Deputy President Pro
6 Tempore, Majority Leader, Minority Leader, Ma-
7 jority Whip, Minority Whip, Majority Conference
8 Committee, Minority Conference Committee,
9 Chairman and Secretary of the Conference of the
10 Majority or Conference of the Minority, Majority
11 Policy Committee, and Minority Policy Commit-
12 tee, of the Senate.

13 “(e) PROHIBITIONS LIMITED TO ACTS FOR COMPEN-
14 SATION.—(1) The prohibitions set forth in subsections (a),
15 (b), (c), and (d) apply only to acts done for compensation.

16 “(2) As used in this subsection, the term ‘compensation’
17 means anything of value which is provided, directly or indi-
18 rectly, for services rendered, including a payment, gift, bene-
19 fit, reward, favor, or gratuity.

20 “(f) PENALTIES.—

21 “(1) KNOWING VIOLATIONS.—Any person who
22 knowingly violates subsection (a), (b), (c), or (d) shall
23 be imprisoned for not more than 1 year and shall be
24 subject to a fine in the amount set forth in this title.

1 “(1) **WILLFUL VIOLATIONS.**—Any person who
2 willfully violates subsection (a), (b), (c), or (d) shall be
3 imprisoned for not more than 2 years and shall be sub-
4 ject to a fine in the amount set forth in this title.

5 “(g) **GENERAL EXCEPTIONS.**—The prohibitions set
6 forth in subsections (a) (other than paragraph (1) of subsec-
7 tion (a)), (b), (c), and (d) shall not apply to any appearance,
8 communication, or representation by a former Member of
9 Congress, officer, or employee, which is made in carrying out
10 official duties as—

11 “(A) an elected official of a State or local govern-
12 ment, or

13 “(B) as an employee of (i) an agency or instru-
14 mentality of a State or local government, (ii) an institu-
15 tion of higher education, as defined in section 1201(a)
16 of the Higher Education Act of 1965, or (iii) a hospital
17 or medical research organization described in section
18 501(c)(3) of the Internal Revenue Code of 1986 and
19 exempt from tax under section 501(a) of such Code, if
20 the appearance, communication, or representation is on
21 behalf of such government, institution, hospital, or or-
22 ganization.

23 “(h) **DESIGNATIONS OF SEPARATE AGENCIES AND**
24 **BUREAUS.**—

1 “(1) DESIGNATIONS.—For purposes of subsec-
2 tions (b) and (c) and except as provided in paragraph
3 (2), whenever the Director of the Office of Government
4 Ethics determines that a separate statutory agency or
5 bureau within a department or agency in the executive
6 branch exercises functions which are distinct and sepa-
7 rate from the remaining functions of the department or
8 agency, the Director shall by rule designate such
9 agency or bureau as a separate department or agency.

10 “(2) INAPPLICABILITY OF DESIGNATIONS.—(A)
11 For purposes of subsections (b) and (c), a designation of
12 an agency or bureau under paragraph (1) shall not
13 apply with respect to—

14 “(i) a former head of that designated agency
15 or bureau;

16 “(ii) any former officer or employee of the
17 department or agency within which the designated
18 agency or bureau exists, if the official responsibil-
19 ities of the officer or employee included supervi-
20 sion of that designated agency or bureau; and

21 “(iii) any person subject to the restrictions
22 set forth in subsection (c).

23 “(B)(i) Any designation under paragraph (1) of an
24 agency or bureau within the Executive Office of the

1 President shall not apply with respect to any person
2 subject to the restrictions set forth in subsection (b).

3 “(ii) Any designation of an agency or bureau
4 under paragraph (1) shall not apply with respect to any
5 representation or other appearance by a person subject
6 to the restrictions set forth in subsection (b) before, or
7 any communication by such a person to, any person
8 who is serving in a position set forth in section 5312,
9 5313, 5314, 5315, or 5316 of title 5, in the depart-
10 ment or agency within which the designated agency or
11 bureau exists.

12 “(i) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL
13 INFORMATION.—The prohibitions of subsections (a), (b), and
14 (c) shall not apply with respect to the making of communica-
15 tions by a former officer or employee solely for the purpose of
16 furnishing scientific or technological information, if such com-
17 munications are made under procedures acceptable to the de-
18 partment or agency concerned or if the head of the depart-
19 ment or agency concerned with the particular matter, in con-
20 sultation with the Director of the Office of Government
21 Ethics, makes a certification, published in the Federal Regis-
22 ter, that the former officer or employee has outstanding quali-
23 fications in a scientific, technological, or other technical disci-
24 pline, and is acting with respect to a particular matter which
25 requires such qualifications, and that the national interest

1 would be served by the participation of the former officer or
2 employee.

3 “(j) RESTRICTIONS ON PARTNERS OF OFFICERS AND
4 EMPLOYEES.—

5 “(1) PROHIBITIONS.—Any person who is a part-
6 ner of an officer or employee of the executive branch of
7 the United States Government, or of any independent
8 agency of the United States (including the Government
9 Printing Office and the General Accounting Office), in-
10 cluding a special Government employee, may not act
11 as agent or attorney for anyone other than the United
12 States before any department, agency, court, or court-
13 martial of the United States, or any officer or employ-
14 ee thereof, in connection with any judicial or other pro-
15 ceeding, application, request for a ruling or other de-
16 termination, contract, claim, controversy, investigation,
17 charge, or accusation, arrest, or other particular matter
18 in which the United States is a party or has a direct
19 and substantial interest and in which such officer or
20 employee or special Government employee participates
21 or has participated personally and substantially as an
22 officer or employee through decision, approval, disap-
23 proval, recommendation, the rendering of advice, inves-
24 tigation, or otherwise.

1 “(2) PENALTIES—Any person who knowingly
2 violates paragraph (1) shall be imprisoned for not more
3 than 1 year and shall be subject to a fine in the
4 amount set forth in this title.

5 “(k) EXCEPTION FOR TESTIMONY.—Nothing in this
6 section shall prevent a former Member of Congress, officer,
7 or employee from giving testimony under oath, or from
8 making statements required to be made under penalty of
9 perjury.

10 “(l) ADMINISTRATIVE DEBARMENT.—

11 “(1) AUTHORITY.—If the head of a department
12 or agency in which a former officer or employee served
13 finds, after notice and an opportunity for a hearing,
14 that such former officer or employee violated subsec-
15 tion (a), (b), or (c) of this section, such department or
16 agency head may prohibit that person from making, on
17 behalf of any other person (except the United States),
18 any informal or formal appearance before, or, with the
19 intent to influence, any communication to, such depart-
20 ment or agency on a pending matter of business for a
21 period of not more than 5 years, or may take other
22 appropriate disciplinary action.

23 “(2) REVIEW OF DISCIPLINARY ACTION.—Any
24 disciplinary action under paragraph (1) shall be subject

1 to review in an appropriate United States district
2 court.

3 “(3) PROCEDURES.—Departments and agencies in
4 the executive branch shall, in consultation with the Di-
5 rector of the Office of Government Ethics, establish
6 procedures to carry out this subsection.

7 “(m) WAIVERS.—

8 “(1) APPLICATIONS FOR WAIVERS.—Any person
9 subject to the restrictions set forth in subsection (a),
10 (b), (c), or (d) may apply to the Attorney General for a
11 waiver of the applicability of any such restriction with
12 respect to the representation of, or advice or aid to, an
13 international organization of which the United States is
14 a member.

15 “(2) GRANTING OF WAIVERS.—The Attorney
16 General shall grant a waiver for which an application
17 is submitted under paragraph (1) if the Attorney Gen-
18 eral determines that the proposed conduct would not
19 be adverse to the security, trade, or other national in-
20 terests of the United States.

21 “(3) TIME PERIOD FOR GRANTING WAIVERS.—A
22 person who applies for a waiver under paragraph (1)
23 and who does not receive a determination under para-
24 graph (2) on the waiver within 90 days after the appli-

1 cation is made may engage in the conduct with respect
2 to which the application is made.

3 “(4) PUBLICATION OF APPLICATIONS AND WAIV-
4 ERS.—Upon the filing of any application for a waiver
5 under this subsection, and upon the granting of any
6 such waiver, notice of such filing or granting shall be
7 published in the Federal Register.

8 “(n) CIVIL PENALTIES.—Any person who violates sub-
9 section (a), (b), (c), (d), or (j) shall be subject to a civil penalty
10 of \$50,000, or the amount of compensation which the person
11 receives for the prohibited conduct, whichever amount is
12 greater. The Attorney General may bring an action under
13 this subsection in an appropriate United States district court
14 against any such person. A violation under this subsection
15 must be established by a preponderance of the evidence. The
16 penalty under this subsection is in lieu of the penalties other-
17 wise provided in this section for violations of subsection (a),
18 (b), (c), (d), or (j).

19 “(o) INJUNCTIVE RELIEF.—If the Attorney General
20 has reason to believe that a person is engaging or is about to
21 engage in conduct in violation of subsection (a), (b), (c), (d) or
22 (j), the Attorney General may petition an appropriate United
23 States district court for an order prohibiting that person from
24 engaging in such conduct. The court may issue such order if
25 it finds that such conduct does or would violate such subsec-

23

1 tion. The filing of a petition under this subsection does not
2 preclude any other remedy which is available by law to the
3 United States or any other person.”.

○

100TH CONGRESS
2D SESSION

H. R. 4921

To amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government while representing or advising a foreign entity for 5 years after such officer or employee leaves Government service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1988

Mr. BILBRAY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government while representing or advising a foreign entity for 5 years after such officer or employee leaves Government service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Integrity After Federal
5 Government Employment Act of 1988".

1 SEC. 2. STRENGTHENING AND CLARIFYING THE CURRENT
2 PROVISIONS OF SECTION 207 OF TITLE 18,
3 UNITED STATES CODE.

4 Section 207 of title 18, United States Code, is amended
5 to read as follows:

6 "§ 207. Disqualification of former executive and legislative
7 branch employees

8 "(a) PROHIBITION ON EXECUTIVE BRANCH EMPLOY-
9 EES IN A PARTICULAR MATTER.—It shall be unlawful for
10 any former officer or employee, including a special Govern-
11 ment employee, of the executive branch of the United
12 States, including any independent agency, or of the District
13 of Columbia—

14 "(1)(A) knowingly to act as agent or attorney for,
15 or otherwise represent any foreign entity by physical
16 presence in a formal or informal appearance before, or

17 "(B) with the intent to influence, make any oral
18 or written communication on behalf of any foreign
19 entity to,

20 any department, agency, court, or commission of the United
21 States or the District of Columbia, or any officer or employee
22 thereof, in connection with a particular matter involving spe-
23 cific parties in which the United States or the District of
24 Columbia is a party or has a direct and substantial interest;
25 or

1 “(2) within five years after that former officer’s or
2 former employee’s employment has ceased, knowingly
3 to act as an agent or attorney for, or otherwise repre-
4 sent or assist in representing, or to aid, counsel,
5 advise, consult or to assist in representing, aiding,
6 counseling, advising, or consulting, any foreign entity
7 in connection with a particular matter involving specif-
8 ic parties in which the United States or the District of
9 Columbia is a party or has a direct and substantial in-
10 terest.

11 “(b) FIVE-YEAR PROHIBITION ON EXECUTIVE
12 BRANCH EMPLOYEES.—It shall be unlawful for any former
13 officer or employee described in subsection (a), within five
14 years after the former officer’s or former employee’s employ-
15 ment has ceased—

16 “(1) knowingly to act as agent or attorney for, or
17 otherwise represent, any foreign entity by physical
18 presence in a formal or informal appearance before, or

19 “(2) with the intent to influence, make any oral or
20 written communication on behalf of any foreign entity
21 to,

22 any department, agency, court, or commission of the United
23 States or the District of Columbia, or any officer or employee
24 thereof, in connection with a particular matter involving spe-

1 cific parties in which the United States or the District of
2 Columbia is a party or has a direct and substantial interest.

3 “(c) PROHIBITIONS ON EXECUTIVE AND LEGISLATIVE
4 BRANCH EMPLOYEES.—It shall be unlawful for any person,
5 other than a special Government employee who has served
6 no more than 60 days in the immediately preceding 365 con-
7 secutive days—

8 “(1) having been employed as a senior official,
9 within five years after such employment has ceased—

10 “(A) knowingly to act as agent or attorney
11 for, or otherwise represent, any foreign entity by
12 physical presence in a formal or informal appear-
13 ance before, or

14 “(B) with the intent to influence, make any
15 oral or written communication on behalf of any
16 foreign entity to, any department, agency, com-
17 mission, or legislative entity (or any member, offi-
18 cer, or employee thereof);

19 “(2) having been employed as a top level official
20 in the executive branch, within five years after such
21 employment has ceased—

22 “(A) knowingly to act as agent or attorney
23 for, or otherwise represent, any foreign entity by
24 physical presence in a formal or informal appear-
25 ance before, or

1 “(B) with the intent to influence, make any
2 oral or written communication on behalf of any
3 foreign entity to, any entity of the executive
4 branch of the United States, including any inde-
5 pendent agency of the United States, or any
6 officer or employee thereof, or any Member of
7 Congress;

8 “(3) having served as a Member of Congress,
9 within five years after such service has ceased—

10 “(A) knowingly to act as agent or attorney
11 for, or otherwise represent, any foreign entity by
12 physical presence in a formal or informal appear-
13 ance before, or

14 “(B) with the intent to influence, make any
15 oral or written communication on behalf of any
16 foreign entity to,
17 any entity of the legislative branch of the United
18 States, or any member, officer, or employee thereof, or
19 any top level official of the executive branch; or

20 “(4) having been employed as a senior or top
21 level official, within five years after such employment
22 has ceased, to be employed by, represent, or advise a
23 foreign entity for compensation, financial gain, or other
24 remuneration.

1 For the purposes of paragraph (1), the legislative entity in
2 which a person served is the Senate, if the person was em-
3 ployed by the Senate, or the House of Representatives, if the
4 person was employed by the House of Representatives. .

5 “(d) AGENTS COMMUNICATING ON BEHALF OF A
6 FORMER OFFICER OR EMPLOYEE.—It shall be unlawful for
7 any person knowingly, in the course of representing any for-
8 eign entity, by any oral or written communication to any
9 department, agency, commission, court, or legislative entity
10 of the United States (or any member, officer, or employee
11 thereof) to communicate to such department, agency, com-
12 mission, court, or legislative entity that such communication
13 is on behalf of a former member, officer, or employee covered
14 under subsection (a), (b), or (c) of this section if such a com-
15 munication by the former member, officer, or employee is
16 prohibited by subsection (a), (b), or (c).

17 “(e) COVERAGE.—(1) As used in subsections (a), (b),
18 and (c) of this section—

19 “(A) the term ‘senior official’ means any officer or
20 employee of the United States other than those of the
21 judicial branch who is not a top level official (including
22 officers and employees of the legislative branch and of-
23 ficers and employees, including special Government
24 employees, of the executive branch, including any inde-
25 pendent agency, commissions, Government corpora-

1 tions, independent establishments as defined in section
2 104 of title 5, the Postal Service, the Postal Rate
3 Commission, and the District of Columbia), who, at
4 any time during the 12 month period preceding the
5 date of termination of employment of the officer or em-
6 ployee, is—

7 “(i) compensated at the basic rate of pay for
8 GS-16 of the General Schedule as prescribed in
9 section 5332 of title 5, or at a comparable or
10 greater rate of pay under other authority, includ-
11 ing positions listed under section 5314 of title 5
12 or sections 105(a)(2) (B), (C), and (D) and
13 106(a)(1) (B), (C), and (D) of title 3, or

14 “(ii) on active duty as a commissioned officer
15 of a uniformed service and assigned to a pay
16 grade of O-7 or above as prescribed in section
17 201 of title 37; and

18 “(B) the term ‘top level official’ means—

19 “(i) any officer or employee of the executive
20 branch of the United States, including any inde-
21 pendent agency, who, at any time during the
22 twelve month period preceding the date of termi-
23 nation of employment of the officer or employee,
24 holds a position listed in section 5312 or 5313 of
25 title 5 or under sections 105(a)(2)(A) and

1 106(a)(1)(A) of title 3, or is paid at a comparable
2 rate of pay under other authority, or

3 “(ii) any Member of Congress, including Del-
4 egates and Resident Commissioners.

5 “(2)(A) Subsections (a), (b), and (c) shall not apply to
6 any person—

7 “(i) who is an elected official of a State or local
8 government and whose actions are on behalf of such
9 government,

10 “(ii) who is engaging solely in the solicitation or
11 collection of funds and contributions within the United
12 States to be used only for medical assistance, food, or
13 clothing to relieve human suffering, in accordance with
14 the Neutrality Act of 1939, and any rules and regula-
15 tions prescribed thereunder,

16 “(iii) whose actions are solely for the purpose of
17 furnishing scientific or technological information if the
18 head of the agency concerned with the particular
19 matter, in consultation with the Office of Government
20 Ethics, or the head of the legislative entity concerned
21 with the particular matter, certifies that the person has
22 outstanding qualifications in a technical discipline re-
23 garding the particular matter and that the national in-
24 terest is served by the participation of such person, and
25 publishes such certification in the Federal Register or,

1 in the case of a legislative entity, in the Congressional
2 Record, or

3 “(iv) who is providing a statement which is based
4 on that person’s special knowledge, provided that no
5 compensation is received for such statement other than
6 that regularly provided by law or regulation for
7 witnesses.

8 “(B) Subsection (c) shall not apply to any person who is
9 employed by—

10 “(i) an agency or instrumentality of a State or
11 local government,

12 “(ii) an accredited, degree-granting institution of
13 higher education, as defined in section 1201(a) of the
14 Higher Education Act of 1965, or

15 “(iii) a hospital or medical research organization,
16 exempted and defined under section 501(c)(3) of the In-
17 ternal Revenue Code of 1954,

18 and whose actions are on behalf of such agency, instrumen-
19 tality, institution, hospital, or organization.

20 “(3) For purposes of this section, a person covered by
21 this section who is detailed from one department, agency, or
22 other entity to another department, agency, or other entity
23 shall, during the period such person is detailed, be deemed to
24 be an officer or employee of both departments, agencies, or
25 such entities.

1 “(f) PENALTIES AND REMEDIES FOR VIOLATIONS.—

2 (1) Any person who violates subsection (a), (b), or (c) shall be
3 fined not more than \$10,000 or imprisoned for not more than
4 2 years, or both. Any person who corruptly violates any such
5 subsection shall be fined not more than \$250,000 or impris-
6 oned for not more than 5 years, or both.

7 “(2) The United States may bring a civil action in any
8 United States district court against any person who violates
9 subsection (a), (b), (c), or (d), and, upon proof of such conduct
10 by a preponderance of the evidence, may recover twice the
11 amount of any proceeds obtained by that person due to such
12 conduct. Such civil action shall be barred unless the action is
13 commenced within 6 years after the later of (A) the date on
14 which the prohibited conduct occurred, or (B) the date on
15 which the United States became or reasonably should have
16 become aware that the prohibited conduct had occurred.

17 “(3) Upon finding, after notice and opportunity for a
18 hearing, that a person has engaged in conduct prohibited by
19 subsection (a), (b), (c), or (d) the head of the department,
20 agency, or commission of the executive branch, including any
21 independent agency, before which the prohibited conduct oc-
22 curred, may prohibit that person from representing anyone
23 other than the United States before such department, agency,
24 or commission, for a period not to exceed 7 years, or may
25 take other appropriate disciplinary action. Any such discipli-

1 nary action shall be subject to review in a United States dis-
2 trict court. Departments, agencies, or commissions shall, in
3 consultation with the Director of the Office of Government
4 Ethics, establish procedures and issue regulations to carry
5 out this subsection.

6 “(4) Upon a showing that a person has violated subsec-
7 tion (a), (b), (c), or (d), the United States may obtain an in-
8 junction to stop or prevent such conduct.

9 “(g) PARTNERS OF AN OFFICER OR EMPLOYEE.—(1)
10 Whoever, being a partner of a Member, officer, or employee,
11 including a special Government employee, of the executive
12 branch or the legislative branch of the United States, includ-
13 ing any independent agency, or of the District of Columbia,
14 knowingly acts as an agent or attorney for, or otherwise rep-
15 resents, any foreign entity by physical presence in a formal or
16 informal appearance before, or with the intent to influence
17 makes any oral or written communication on behalf of any
18 foreign entity to, any department, agency, court, or commis-
19 sion of the United States or the District of Columbia or the
20 House of Congress in which the Member, officer, or employee
21 serves or is employed in connection with a particular matter
22 in which the United States or the District of Columbia is a
23 party or has a direct and substantial interest and in which
24 such Member, officer, or employee or special Government
25 employee participates or has participated personally and sub-

1 stantially as a Member, officer, or employee, shall be fined
2 not more than \$10,000, or imprisoned for not more than one
3 year, or both.

4 “(2) Except as provided by the next sentence, whoever,
5 being the partner of a Member, officer, or employee of the
6 legislative branch in the partnership for the provision of pro-
7 fessional services, knowingly acts as an agent or attorney for,
8 or otherwise represents, any foreign entity by physical pres-
9 ence in a formal or informal appearance before, or with intent
10 to influence makes any oral or written communication on
11 behalf of any foreign entity to any Member, officer, employee,
12 or other component part of the House in which the Member,
13 officer, or employee serves in connection with a matter pend-
14 ing before either House or a matter which is the subject of
15 legislative oversight in either House shall be fined not more
16 than \$10,000, or imprisoned for not more than one year, or
17 both. The preceding shall not prohibit a formal or informal
18 appearance before, or oral or written contact to a Member,
19 officer, employee, or other component part of either House
20 on behalf of the partnership itself.

21 “(h) TESTIMONY.—Nothing in this section shall prevent
22 a person from giving testimony under oath, or from making
23 statements required to be made under penalty of perjury.

24 “(i) DEFENSE.—In an action under paragraph (1), (2),
25 or (3) of subsection (c), it is an affirmative defense, which the

1 defendant must establish by a preponderance of the evidence,
2 that the defendant acted without receiving or the expectation
3 of receiving, directly or indirectly, any compensation, finan-
4 cial gain, or remuneration.

5 “(j) DEFINITIONS.—For purposes of this section the
6 term ‘foreign entity’ includes—

7 “(1) the ‘government of a foreign country’ as de-
8 fined in section 1(e) of the Foreign Agents Registration
9 Act of 1938, as amended;

10 “(2) a ‘foreign political party’ as defined in section
11 1(f) of such Act;

12 “(3) a foreign organization substantially controlled
13 by a foreign country or foreign political party; and

14 “(4) a foreign organization with its primary own-
15 ership or stock or headquarters or manufacturing
16 complexes or industrial complexes are in a foreign
17 country.”.

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